REMARKS

Applicant's counsel thanks the Examiner for the careful consideration given the application.

Claim Rejections - 35 USC § 112

Claims 1-3, 9 and 13 have been rejected as being unclear in the use of the limitation "worst case LoanCap". Applicant refers to page 16 line 22 through page 18 line 30 of the specification which describes the consideration of a "worst-case scenario" so that the meaning of a worst case LoanCap is clear. For example, page 18 lines 13-15 of the specification describes a worst case LoanCap as follows: "This decision would limit the loan amount that would be permitted on this property (the LoanCap) to be: ($130,000 + $7,500 – ($130,000 * 6%) - $2,000)/ 1.045 = $122,200" (i.e. the worst case LoanCap). Please also see page 18 lines 27-28, which specifically identifies the worst case LoanCap.

In response to the Examiner's suggestions, claims 1, 3, 8- 9, 14, 16 and 21-22 have been amended to remove the limiting phrases "capable of" and "able to be". Claims 4 and 17 have been amended to correct a typographical error.

Claim Rejections - 35 USC § 103

Claims 1-23 have been rejected as unpatentable over Lloyd (US Pat. No. 4, 876,648) in view of Florance (US Pat. No. 6,871,140). However, neither of these references teaches nor suggests the claimed subject matter, and specifically, neither teaches nor suggests a "LoanCap", which is a required element in all of the pending claims.

Clearly, Lloyd fails to teach a LoanCap. For the reasons previously outlined in applicant's Response filed November 19, 2006, Lloyd takes a property value as a given and does not teach valuation methods. Florance is cited to fill in this missing aspect. However, it is believed that the Examiner is under a misconception regarding the nature of the "LoanCap" of the present invention. The words "loan" and "cap" do appear in Florance. However, Florance does not teach or suggest a "LoanCap".

Florance relates to a database system of information about commercial real estate. The word "cap" is used in Florance in the sense of a "cap rate" (i.e. highest interest rate), which does not relate to the value of a property itself.

To assist the Examiner, the applicant has prepared a helpful example to illustrate the concept of a "LoanCap" in the present invention. (see Attachment "A") This Attachment is provided as an explanatory tool only and is not intended to replace or supplement any part of the patent specification itself.

For all the foregoing reasons, it is believed that the claims as now presented define over the applied references and are accordingly in condition for allowance, which is respectfully requested.

On July 26, 2002 and May 14, 2002, applicant submitted Supplemental Information Disclosure Statements including a total of 3 sheets of Form 1449. None of these sheets were initialed and returned with the Examiner's Office action mailed July 19, 2006. In its Amendment filed November 17, 2006, applicant again requested that these sheets be initialed and returned but none of these sheets were initialed and returned with the Examiner's Office action mailed February 27, 2007. Applicant is accordingly again enclosing copies of the 3 sheets of Form 1449 and requests that initialed copies be returned with the next communication.

If there are any fees required by this communication which are not covered by an enclosed check, please charge such fees to our Deposit Account No. 16-0820, Order No. 34171.

Respectfully submitted,
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The LoanCap Concept

Any estimate of value of a residential property (automated or otherwise) cannot be guaranteed to be 100% precise. A range of value is therefore typically provided. This value range can be used to substantiate a property's purchase price, or declared value, however the automated system provides an additional component to mitigate potential loss by determining a worst case scenario loan value, the "LoanCap".

In neighborhoods with broad value ranges or in dynamic markets, it is possible for the property's value to be substantiated and still have potential for loss. The system provides the lending institution's management the ability to limit the amount of potential downside risk to an acceptable level. In the case of a loan default, realization costs must be borne by the lending institution so the system allows the lending institution's risk department to assign their own value to these costs by utilizing the following parameters:

1. Potential Loan Loss: the principle amount of the loan requested multiplied by the PotLossLoanPercent Factor. This factor is intended to account for costs that are dependent on the mortgage loan value, such as the cost associated with foregone interest, based on the institutions' internal history of defaults, and current mortgage interest rates.

2. Potential Property Value Loss: the Low Limit value of the property multiplied by the PotLossPropPercent Factor. This Factor is intended to account for those costs which are dependent on the value of the property, for example MLS and real estate fees.

3. Potential Fixed Cost Loss: the PotLossFixedValue Factor. This factor represents the fixed costs intended to cover standard costs associated to processing a mortgage default (legal fees, administration costs, etc.) and are not dependent on the value of the property or mortgage loan.

4. Maximum Allowable Loss: the PotLossMax Factor allows the lending institution's risk department to limit the total amount of net loss that is acceptable.

The LoanCap is calculated as follows:

LoanCap = |(LowLimit + PotLossMax – (LowValue * PotLossPropPercent) – PotLossFixedValue) / PotLossLoanPercent|

Example

Consider an example property valuation where the system has calculated a price range for a property with a Low Limit of $130,000 and a High Limit of $171,000.

A mortgage applicant is refinancing the property and requesting a $125,000 mortgage based on a declared property value of $167,000. The declared value of $167,000 is within the property value range, and therefore substantiated. The system next effectively asks the question on behalf of the lending institution: "If anything goes wrong, and the mortgage loan goes into default on this property, what risk are we taking if the property was really only worth $130,000 (the Low Limit value) and is that risk acceptable?" The system assesses the risk by calculating the potential for net loss, using parameters that the lending institution's risk department provides.

The LoanCap would be calculated as follows using the sample values provided here:

PotLossLoanPercent = 1.045
PotLossPropPercent = 6 %
PotLossFixedValue = $2,000
PotLossMax = $6,000

Realization costs to process the mortgage loan default would be calculated as:

1. Potential Loan Loss: 1.045 * $125,000 = $130,625 (to cover principle of the loan plus forgone interest)

2. Potential Property Value Loss: 0.06 * $130,000 (Low Limit) = $7,800 (to cover real estate commission)
3. Potential Fixed Cost Loss: $2,000 (to cover fixed costs such as legal and other expenses)

Total realization costs would be calculated at ($130,625 + $7,800 + $2,000) = $140,425 if the requested $125,000 loan was approved. The system assumes a worst case where the property could only be sold for $130,000, so the potential net loss would be ($140,425 - $130,000) = $10,425.

Since the lending institution's risk department set the Maximum Allowable Loss to $6,000, the system calculates the acceptable loan amount, or LoanCap, for this property as:

[($130,000 + $6,000 - ($130,000 * 6%) - $2,000) / 1.045] = $120,765

Thus, even though the declared property value is within the reasonable value limits that the system calculated for this property, the LoanCap will be reduced to mitigate against the uncertainly due to the range of value. In this case the loan amount requested would not pass, as it is not considered an acceptable risk.